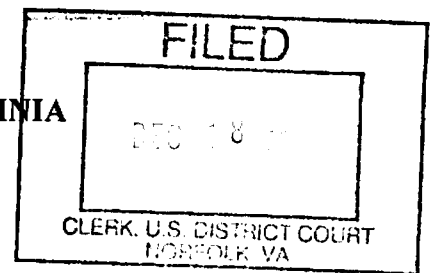


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**



LIONEL BLACKMON, #375017,

Petitioner,

v.

ACTION NO. 2:09cv175

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on April 19, 2007, in the Circuit Court of the County of Chesterfield for conspiracy to distribute cocaine and distribution of cocaine, as a result of which he was sentenced to serve ten years in the Virginia penal system with six and one-half years suspended.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Report and Recommendation filed November 5, 2009, recommends dismissal of the petition. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On November 10, 2009, the Court received Petitioner's Objections to the Report and Recommendation (Doc. 18).


The Court, having reviewed the record and examined the objections filed by Petitioner to the

Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation. Ground (1) was previously dismissed by Order dated May 29, 2009. Ground (2) is DENIED because it was previously adjudicated by the Virginia Supreme Court on the merits and none of the statutory exceptions apply that would allow this Court to review the claim on the merits. Ground (3) is DENIED because it relies entirely on the interpretation of Virginia law and is not cognizable on federal habeas review. Ground (4) is DENIED because it was procedurally barred from review in the state courts and thus, may not now be considered in this federal Court. It is, therefore, ORDERED that the petition be DENIED and DISMISSED. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to Petitioner and counsel of record for Respondent.


Mark S. Davis
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
December 17, 2009